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*Attorneys for Plaintiff Daniel Fellner*

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

Daniel Fellner,

Plaintiff,

- against -

Travel 4 All Seasons, LLC,

Defendant.

Case No. 2:19-cv-01719  
(DJH)

Hon. Diane J. Humetewa

**DECLARATION OF  
RICHARD LIEBOWITZ**

I, RICHARD LIEBOWITZ, hereby declare under the penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

1. I am lead counsel for Plaintiff Daniel Fellner (“Plaintiff” or “Fellner”) in this action and submit this declaration in opposition to Defendant’s motion for summary judgment.

1           2.     Plaintiff Daniel Fellner is an Arizona-based professional journalist who  
2 licenses his photographs for a fee.

3           3.     Plaintiff has a Master degree in Journalism (OSU), has been a professor  
4 of travel writing at Arizona State University for 10 years, has published over 100  
5 travel articles including in USA Today, and is a member of the American Society of  
6 Travel Writers. [Attached as Exhibit A is a true and correct copy of Plaintiff's  
7 responses to Defendant's first set of interrogatories - *see* Interrogatory Response No.  
8 4. ].

9           4.     Defendant is a for-profit entity which publishes news content relating to  
10 recreational travel.

11          5.     Fellner wrote an article about the growing popularity of Pickleball on  
12 cruise ships. Plaintiff wrote some of the article in Shanghai, China and some in  
13 Arizona in March 2018. [Ex. A: Interrogatory Response No. 11]. Attached as Exhibit  
14 B is a true and correct copy of the original text from Fellner's article.

15          6.     To prepare the Literary Work, Plaintiff contacted Pickleball  
16 Association, arrange interview with President, contacted Cruiseline Association,  
17 had to get ship's staff to get photographed playing Pickleball, and researched  
18 pickleball through Google searches. [Ex. A: Interrogatory Response No. 12]

19          7.     Fellner then licensed the Literary Work to third-party media companies,  
20 namely USA Today and Arizona Republic. [Ex. A: Interrogatory Response No. 13]

21          8.     On March 30, 2018, Arizona Republic published Fellner's Literary  
22 Work in an article entitled *Pickleball at sea? These cruise ships court fans with*  
23 *facilities*. Attached as Exhibit C is a true and correct copy of the Arizona Republic  
24 article.

25          9.     On April 1, 2018, USA Today published Fellner's work in an article  
26 entitled *Pickleball at sea? These cruise ships court fans with facilities*. *See*  
27 [https://www.usatoday.com/story/travel/cruises/2018/04/01/pickleball-cruise-ships-](https://www.usatoday.com/story/travel/cruises/2018/04/01/pickleball-cruise-ships-court-fans-sport/473599002/)  
28 [court-fans-sport/473599002/](https://www.usatoday.com/story/travel/cruises/2018/04/01/pickleball-cruise-ships-court-fans-sport/473599002/)

12. In the Defendant's Infringing Article, commercial advertisements appear adjacent to the display of Plaintiff's Literary Work. *See* Exhibit E.

Respectfully Submitted:

LIEBOWITZ LAW FIRM, PLLC

Richard Liebowitz

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